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DE RUEHUNV #0659/01 3531512
ZNR UUUUU ZZH (CCY AD0EBCE9 MSI5435-695)
R 181512Z DEC 08 ZDS
FM USMISSION UNVIE VIENNA
TO RUEHC/SECSTATE WASHDC 8825
INFO RUCNDT/USMISSION USUN NEW YORK 1418
RUEHYN/AMEMBASSY SANAA 0050
RUEHDR/AMEMBASSY DAR ES SALAAM 0019
RUEHDJ/AMEMBASSY DJIBOUTI 0003
RUEHNR/AMEMBASSY NAIROBI 0010
RUEHLO/AMEMBASSY LONDON 1043
RUZEFAA/HQ USAFRICOM STUTTGART GE
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UNCLAS UNVIE VIENNA 000659

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SUBJECT: UNODC PROJECT PROVIDES VEHICLE FOR PROMOTING LAW
ENFORCEMENT EFFORTS AGAINST PIRACY

SUMMARY

¶1. Piracy has been a growing topic of discussion within the UN Office on Drugs and Crime (UNODC) and among member states involved in that organization. Many major donor countries which received a December 5 briefing on potential UNODC activities in this field

believe there is an appropriate and targeted role for UNODC in the international community's response to piracy near the Gulf of Aden and Somalia. UNODC released during that briefing a useful technical assistance proposal for strengthening law enforcement efforts against piracy and developing a shiprider capability. The proposal was developed at the request of the U.S. and focuses on addressing legal gaps and strengthening the ability of Djibouti, Kenya, Yemen and Tanzania to arrest, prosecute and detain pirates. The UNODC proposal deserves favorable consideration for U.S. funding. Other Vienna delegations are looking to the U.S. for a signal of how we will approach this project proposal. END SUMMARY

GROWING INTEREST AT UNODC

¶2. Given recent media coverage of the growing acts of piracy near Somalia and the UN Security Council's resolutions on this topic, it is not surprising that UNODC has developed a keen interest in the law enforcement response to this threat. UNODC experts participated in the International Expert Group on Piracy Off the Somalia Coast, commissioned by Special Representative to the Secretary General to Somalia and held in Nairobi from November 10-21. This group explored legal authorities and methods for promoting international cooperation against piracy, and will report its findings to the UN Security Council-mandated ministerial meeting on piracy being held in Nairobi on December 11.

¶3. On December 1, UNODC shared with UNVIE a \$1.2 million proposal technical assistance proposal for strengthening law enforcement efforts against piracy. The proposal was developed at the request of the U.S., and focuses on addressing legal gaps and strengthening the ability of Djibouti, Kenya, Yemen and Tanzania to arrest, prosecute and detain pirates.

¶4. At a December 5 meeting of UNODC Major Donors, UNODC formally

released the proposal to the twenty-one donor countries and provided a short briefing on its proposed activities. UNODC's John Sandage, Deputy Director of the Treaty and Legal Affairs Division and the in-house coordinator for UNODC on the piracy issue, claims that UNODC can get "boots on the ground" in as early as two weeks, assuming there is financial support for the project. At the same time, Sandage admitted that UNODC is still in the process of securing approval of the four target countries to cooperate in the proposed plan of action.

¶5. Some of UNODC's top donors, including United Kingdom, Canada, Norway, and the EC, have expressed support for UNODC's venturing into this area. Most agree that this project falls solidly within the UNODC mandate and would add value to international efforts against the piracy problem. Norway and the EC office in Nairobi have also expressed specific interest -- although no formal commitments -- to provide financial support for UNODC's work against piracy.

UNODC PROPOSAL

¶6. There are two main aspects to UNODC's proposed short-term work against piracy: addressing legal inadequacies to law enforcement and building a minimal on-the-ground law enforcement capability. The activities envisioned in these two areas are, to a large extent, technical assistance activities which UNODC has extensive experience providing to various countries throughout the world. This includes strengthening prosecutorial and investigative abilities, building judicial expertise, developing detention capabilities and providing legislative and regulatory advice.

¶7. One unique activity would be developing a shiprider capability in the four target countries. This proposed activity would address current legal obstacles faced by ships that are patrolling the area off Somalia. These obstacles include lack of criminal jurisdiction in territorial waters, limitations in law enforcement powers, and constitutional, legal or policy restrictions that may make it impractical for patrolling ships to board pirate ships and detain pirates. UNODC proposes to work with the target countries to develop a shipriding corps that can literally bring relevant jurisdiction to the patrolling boats and provide a greater level of cooperation with nearby countries.

¶8. UNODC's short-term work may have some complementary affect of helping some of these countries strengthen their legislation and implementation of the UN Convention against Transnational Organized Crime (UNTOC), in addition to the Law of the Sea Convention and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Kenya and Djibouti are parties to UNTOC, while Yemen is a signatory.

COMMENT

¶9. While we understand that UNODC's proposal represents only a small part of addressing the larger problem of piracy, it nicely targets the current legal inadequacies that have hindered international law enforcement cooperation in this area. It will allow international UNODC experts to position themselves on the ground in relevant countries and directly influence the ability and willingness of the target countries to take more concerted law enforcement action against this growing and troubling crime. UNODC is making efforts to coordinate on this issue with other UN bodies, including the International Maritime Organization and UN Development Programme (UNDP). In fact, UNDP funded UNODC participation at the Nairobi working group meetings in November and is cooperating closely with UNODC.

¶10. COMMENT CONTINUED: With all this in mind, UNVIE urges favorable consideration of the UNODC proposal and early identification of an appropriate funding source. We would urge that a U.S. announcement of support be coordinated in Vienna with UNODC major donors and other interested delegations. This approach would have the added benefit of maximizing prospects for generating counterpart funds

from other interested countries. It would also help avoid general complaints that the UNODC is launching a new project based solely on the request and funding of one country - a complaint that we ourselves have made in other circumstances.

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